

Mail Stop Interference
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Paper 1
Filed:
July 18, 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

THOMAS J. YORKEY
Junior Party
(Patent 5,645,060),

v.

MOHAMED K. DIAB, ESMAIEL KIANI-AZRBAY JANY
and WALTER M. WEBER
Senior Party
(Application 09/111,604).

Patent Interference No. 105,477
(Technology Center 3700)

DECLARATION - Bd.R. 203(d)¹

1 **Part A. Declaration of interference**

2 An interference is declared (35 U.S.C. § 135(a)) between the above-identified
3 parties. Details of the application(s), patent (if any), reissue application (if any),
4 count(s) and claims designated as corresponding or as not corresponding to the
5 count(s) appear in Parts E and F of this DECLARATION.

6

¹ "Bd.R. x" may be used as shorthand for "37 C.F.R. § 41.x". 69 Fed. Reg. 49960, 49961 (12 Aug. 2004).

1 **Part B. Judge managing the interference**

2 Administrative Patent Judge Jameson Lee has been designated to manage the
3 interference. Bd. R. 104(a).

4 **Part C. Standing order**

5 A Trial Section STANDING ORDER [SO] (Paper 2) accompanies this
6 DECLARATION. The STANDING ORDER applies to this interference.

7 **Part D. Initial conference call**

8 A telephone conference call to discuss the interference is set for **1:00 p.m. on**
9 **September 12, 2006** (the Board will initiate the call).

10 No later than **four business days** prior to the conference call, each party shall
11 file and serve (SO ¶¶ 10.1 & 105) a list of the motions (Bd. R. 120; Bd. R. 204;
12 SO ¶¶ 104.2.1, 120 & 204) the party intends to file.

13 A sample schedule for taking action during the motion phase appears as Form 2
14 in the STANDING ORDER. Counsel are encouraged to discuss the schedule prior to
15 the conference call and to agree on dates for taking action. A typical motion period
16 lasts approximately eight (8) months. Counsel should be prepared to justify any
17 request for a shorter or longer period.

1 **Part E. Identification and order of the parties**

2 Junior Party

3 Named inventors: Thomas J. Yorkey, San Ramon, CA
4

5 Involved Patent: 5,645,060, granted July 8, 1997
6 based on application 08/490,315, filed
7 June 14, 1995

8 Title: Method and apparatus for removing artifact and
9 Noise from pulse oximetry

10 Assignee: Nellcor Puritan Bennett Incorporated

11 Senior Party

12 Named Inventors: Mohamed K. Diab, Laguna Niguel, CA
13 Esmael Kiani-Azarbay Jany, Laguna Niguel, CA
14 Walter M. Weber, Los Angeles, CA
15

16 Involved Application: 09/111,604, filed July 7, 1998

17 Title: Signal processing apparatus

18
19 Assignee: Comerica Bank-California

20 The senior party is assigned exhibit numbers 1001-1999. The junior party is
21 assigned exhibit numbers 2001-2999. Bd. R. 154(c)(1); SO ¶ 154.2.1. The senior party
22 is responsible for initiating settlement discussions. SO ¶ 126.1.

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Part G. Heading to be used on papers

The following heading must be used on all papers filed in this interference, see

SO ¶ 106.1.1:

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1 **Part H. Order form for requesting file copies**

2 When requesting copies of files, use of SO Form 4 will greatly expedite
3 processing of the request. Please attach a copy of Parts E and F of this
4 DECLARATION with a hand-drawn circle around the patents and applications for which
5 a copy of a file wrapper is requested.

/s/Jameson Lee
Administrative Patent Judge

Enc:

Copy of STANDING ORDER
Copy U.S. Patent 5,645,060
Copy of claims of Application 09/111,604

Revised 3 January 2006

cc (via overnight delivery):

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